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James L. Connaughton
Chairman, Council on Environmental Quality
Washington, D.C.

Dear Mr. Connaughton:

The following letter is in response to your request for public comment to further the work of the NEPA Task Force in its efforts to identify best practices and enhance the NEPA process. It must be noted that the opinions expressed are those of Lemhi County, although they were developed by close interaction with officials of the Salmon-Challis National Forest. In Lemhi County, where ninety-two percent of the land area is federally owned, cooperative efforts between local government and federal agencies are essential. Both the Forest Service and Bureau of Land Management have been more than willing to work with the County for the overall benefit of the area.

Because the Forest Service is responsible for management decisions for the vast majority of the county, and because it is more directly affected by the NEPA process than other agencies and entities within the county, the local governments rely upon their experiences and expertise in that area. We may not always agree with their conclusions, but we certainly respect their views and opinions. As such, the answers supplied below in response to your questions listed in the Federal Register (Vol. 67, No. 131, Tuesday, July 9, 2002) have been formulated by the County after a spirited interactive dialogue with Forest Service personnel.

A. Technology, Information Management, and Information Security

1. *Where do you find data and background studies to either prepare NEPA analyses or to provide input or to review and prepare comments on NEPA analyses?*

We feel it is generally best to review and apply data from the Forest Service and other public agencies, especially the Bureau of Land Management. Also, we look to other public and non-public entities such as universities or conservation groups such as the Nature Conservancy. Whenever possible, we try to utilize locally generated data to confirm or refute data from outside sources.

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2. *What are the barriers or challenges faced in using information technologies in the NEPA process?*

Outdated information is seldom modernized, and there seems to be little desire to reformat older data. As such, data may not be compatible among agencies, considering either standards or technology. Sampling methods may vary, and statistical analysis may be invalid. Subjective analysis reflecting personal frames of reference may skew inferences drawn from similar data sets.

What factors should be considered in assessing and validating the quality of the information? Peer review, if honest and available, is possibly the best current method. The National Academy of Sciences is one the best current sources of peer review. Unfortunately, in many cases regarding relatively rare species, there are often few or no experts available in the field. We believe that it is essential to use solid numerical data rather than subjective opinion. Logical, deductive reasoning should be used, reflecting background data with emphasis on numbers and sources. Sound mapping and data collection standards are essential. Specific science should be considered preferable to generalities. Finally, it is important to bear in mind that most biological opinions are exactly that – opinions!

3. *Do you maintain databases and other sources of environmental information for environmental analyses?*

In the case, of the Salmon-Challis National Forest, the simple answer is yes.

Are these information sources standing or project specific?

Both.

Please discuss any protocols or standardization efforts that you feel should be utilized in the development and maintenance of these systems.

Continual updating, storage, and prioritization is essential to maintain these systems. GIS mapping with uniform standards are also vital. Standard, compatible databases should be used on a nationwide basis.

4. *What information management and retrieval tools do you use to access, query, and manipulate data when preparing analyses or reviewing analyses?*

GIS, spreadsheets, models, databases, and statistical analysis are routinely utilized.

What are the key functions and characteristics of these systems?

While sorting and selecting key characteristics and merging them with similar data is the primary objective of these operations, it is essential to select the proper tool for each criterion. It is also incredibly important to refrain from manipulation of data in order to fit accepted preconceptions.

5. *What are your preferred methods of conveying or receiving information about proposed actions and NEPA analyses and for receiving NEPA documents (e.g. paper, CD-ROM, website, public meeting, radio, television)?*

We believe that public meetings are the most effective means of information exchange in our area. The resultant discussion, provided it remains orderly, forces validation of opinions. The dearth of electronic technology in central Idaho makes CD-ROM and web sites ineffective at best. Newspaper articles are most acceptable here than other mass media, as there are no local television stations and only one radio station.

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6. *What information management technologies have been particularly effective in communicating with stakeholders about environmental issues and incorporating environmental values into agency planning and decision making (e.g. web sites to gather public input or inform the public about a proposed action or technological tools to manage public comments)?*

Public forums, followed by articles in the local newspaper, have been effective tools to foment public interest. However, face-to-face interaction is by far the most effective interface to exchange information within our community.

What objections or concerns have been raised concerning the use of tools (e.g. concerns about broad public access)?

Public meetings often carry an inherent inability to focus public comment, resulting in a lack of clarity regarding specific proposals. Due to the geographic qualities of our area, the population is often faced with an overwhelming number of environmental issues, making it difficult for them to concentrate on one specific issue at a time. Propaganda from special interest groups is often considered more credible than logical opinions expressed by the people who are most affected by decisions reached by agencies involved in the NEPA process. When public comment is solicited, the comments offered by local residents are sometimes "drowned out" by outside interests, frequently by people who are employed by outside special interest groups.

7. *What factors should be considered in balancing public involvement and information security?*

First, it is essential that the document is actually ready for review before public comment is solicited. Once that stage is reached, very little information should ever be withheld from the public. Personnel data is obviously not a public matter, and proprietary and/or sensitive data such as economic and culturally significant information should not be a public concern.

B. Federal and Inter-governmental Collaboration

1. *What are the characteristics of an effective joint-lead or cooperating agency relationship/process?*

This concept is probably best illustrated by example. To demonstrate an effective relationship, it is only necessary to examine the joint-lead process involving the Forest Service and Bureau of Land Management on ESA consultation documents in central Idaho. Similar goals and objectives make cooperation easy. This is particularly true in the areas of fire management and fuel reduction on public lands. Although there may be differences of opinion among individuals, the overall objectives are sufficiently similar to allow smooth interaction and coordination of efforts. As is always the case, open agendas lead to progress.

To define ineffective interagency relationships, one merely needs to examine any process in which the National Marine Fisheries Service becomes involved. Hidden agendas and alternative goals on the part of this agency rarely fails to lead to gridlock. Often, new barriers and concerns are raised after the consultation process, forcing a recurrent need to discover a simple cylindrical transportation device.

2. *What barriers or challenges preclude or hinder the ability to enter into effective collaborative agreements that establish joint-lead or cooperating agency status?*

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In general, pessimism overrides collaboration. Agencies such as NMFS who enter consultations with negative expectations are rarely disappointed. Divergent philosophies with little incentive to reach agreement can doom cooperation between agencies. The Forest Service is mandated by law (the Multiple-Use Sustained-Yield Act) to manage lands under their jurisdiction for the best multiple use. Agencies such as NMFS or Fish and Wildlife Service are often focused on single-use issues, with no regard for other agencies' position. This seldom yields progress.

3. *What specific areas should be emphasized during training to facilitate joint-lead and cooperating agency status?*

Training may help, but it is certainly no panacea in regard to the current set of difficulties. Communication skills – verbal, visual, and subliminal – are vital to the cooperative process. These are skills that are generally best acquired through experience rather than training. The use of a capable facilitator can be highly beneficial. The governments of Idaho counties often feel that their viewpoints are undervalued by federal agencies. It is vital that these agencies fully comprehend that counties are more than “stakeholders” in regard to local environmental issues. County officials expect and deserve to be regarded as representatives of government, rather than as minor players whose opinions are not valued. They frequently possess knowledge and experience vital to reaching decisions that culminate in the best overall results for their communities.

C. Programmatic Analysis and Tiering

1. *What types of issues best lend themselves to programmatic review, and how can they best be addressed in a programmatic analysis to avoid duplication in subsequent tiered analysis?*

Socioeconomic analysis is highly suited to this type of review, especially as it applies to political and geographical subdivisions. Data that applies to one part of a large county such as ours is usually equally applicable to other parts, particularly similar watersheds. Chemical treatment plans, both for plants and insects, are also suitable. Other examples include fuel reduction plans, especially on Class III lands, and categorical exclusions for fuel reduction and/or timber harvest. The process of compiling an Environmental Impact Statement which must then be followed by Environmental Assessments for implementing portions of that EIS should be avoided. The concept of multi-layered concentric circles of management procedures is a recipe to accomplish nothing.

2. *Please provide examples of how programmatic analyses have been used to develop, maintain, and strengthen environmental management systems, and examples of how an existing environmental management system can facilitate and strengthen NEPA analyses.*
- Categorical exclusions are the obvious outstanding example of this system. They can be applied to small timber sales, salvage sales, fences, prescribed fire, and firewood harvest. There is almost no variation between these projects, so programmatic analysis has a self-evident set of benefits.

D. Adaptive Management/Monitoring and Evaluation Plans

1. *What factors are considered when deciding to use an adaptive management approach?*

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Several factors are considered, including variability of circumstances, relative environmental risk, public safety, public perception, and cost-effectiveness.

2. *How can environmental impact analyses be structured to consider adaptive management?*

Projected outcomes can be specified within the EIS. Alternatives and guidelines to meet changing criteria can easily be described and outlined.

3. *What aspects of adaptive management may, or may not, require subsequent NEPA analyses?*

As long as monitoring shows results consistent and compatible with anticipated guidelines, further NEPA analysis should not be required. Breaching of these guidelines should result in the revision of the activity to meet the standards of the guidelines.

4. *What factors should be considered (e.g. cost, timing, staffing needs, environmental risks) when determining what monitoring techniques and levels of monitoring intensity are appropriate during the implementation of an adaptive management regime?*

While environmental risks are the top priority, timing is frequently crucial. Cost/benefit ratios must be considered strongly. Available research should be implemented whenever possible in making the determination of monitoring standards.

How does this differ from current monitoring activities?

Presently, monitoring activities are sometimes so extensive that budgetary constraints result in activities that are less than described in the EIS, making them vulnerable to litigation.

Practicality should be reflected in the cost/benefit ratio, and monitoring activities should be accomplished within the scope of the expected budget.

E. Categorical Exclusions

1. *What information, data studies, etc., should be required as the basis for establishing a categorical exclusion?*

Existing data should be sufficient to make this determination. Conclusions can be drawn from monitoring of these activities. The historical record, including previous EA's showing no impact, and the effects of monitoring of these activities, will often speak for themselves. Also, impacts on public safety should take priority over extended assessment of low-risk environmental evaluations. Hazardous roads, fuel accumulations, erosion, or insect-borne infectious disease, to name only a few examples, should be acted upon in a timely manner, even if it means bypassing environmental assessments. The welfare of the human population must be a primary priority.

2. *What points of comparison could an agency use when reviewing another agency's use of a similar categorical exclusion in order to establish a new categorical exclusion?*

The similarity of the situation, particularly in regard to the land and its vegetation, is an apparent point of comparison. Success rates and the monitoring of results should also be applicable.

3. *Are improvements needed in the process that agencies use to establish a new categorical exclusion? If so, please describe them.*

YES! Currently, the Forest Service writes more Environmental Impact Statements than any other agency, even though there is relatively little environmental risk when compared to some

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other entities. The system should consider relative long-term impact associated with management decisions. The option should be allowed for regional- or area-specific categorical exclusions. Local federal land managers should be allowed more latitude proportionate to their experience and expertise.

F. Additional Areas for Consideration

Appeals and Litigation

Appellants should bear financial responsibility for the negative effects of lawsuits that are shown to be frivolous or to be considered as a "nuisance". This could be in the form of a posted bond which could be used to offset the costs to the involved agency or community after the disposition of the lawsuit.

Equal Access to Justice Act

Revision of this law should be an objective of the government. Today, large law firms have gone into the business of pursuing environmental litigation against the federal government, knowing that their huge fees will be paid by that government, regardless of the outcome of the suit. Limits should be applied to the payments such firms could receive.

FACA

FACA should be reviewed and probably revised. It limits agencies' abilities to cooperate with affected members of the public. Too frequently, this results in a lack of public trust, and gets in the way of collaborative efforts.

R. E. Hye